

Union Calendar No. 230

115TH CONGRESS
1ST SESSION**H. R. 289****[Report No. 115–320, Part I]**

To authorize the Secretary of the Interior and the Secretary of Agriculture to issue permits for recreation services on lands managed by Federal agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2017

Mr. LAMALFA introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 21, 2017

Additional sponsors: Mrs. LOVE, Mr. MCCLINTOCK, Mr. NEWHOUSE, Mr. STEWART, Mr. VALADAO, Mr. MACARTHUR, Mr. O'HALLERAN, Mr. SIMPSON, Ms. CHENEY, and Mr. GRAVES of Louisiana

SEPTEMBER 21, 2017

Reported from the Committee on Natural Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 21, 2017

The Committee on Agriculture discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 4, 2017]

A BILL

To authorize the Secretary of the Interior and the Secretary of Agriculture to issue permits for recreation services on lands managed by Federal agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINI-**
 4 **TIONS.**

5 (a) *SHORT TITLE.*—*This Act may be cited as the*
 6 *“Guides and Outfitters Act” or the “GO Act”.*

7 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 8 *this Act is as follows:*

Sec. 1. Short title; table of contents; definitions.

Sec. 2. Special recreation permit and fee.

Sec. 3. Permit across multiple jurisdictions.

Sec. 4. Guidelines and permit fee calculation.

Sec. 5. Use of permit fees for permit administration.

Sec. 6. Adjustment to permit use reviews.

Sec. 7. Authorization of temporary permits for new uses for the Forest Service
and BLM.

Sec. 8. Indemnification requirements.

Sec. 9. Streamlining of permitting process.

Sec. 10. Cost recovery reform.

Sec. 11. Extension of Forest Service recreation priority use permits.

9 (c) *DEFINITIONS.*—*In this Act:*

10 (1) *SECRETARY.*—*The term “Secretary”*
 11 *means—*

12 (A) *the Secretary of the Interior, with re-*
 13 *spect to a Federal land management agency*
 14 *(other than the Forest Service); and*

15 (B) *the Secretary of Agriculture, with re-*
 16 *spect to the Forest Service.*

17 (2) *SECRETARIES.*—*The term “Secretaries”*
 18 *means the Secretary of the Interior and the Secretary*
 19 *of Agriculture acting jointly.*

1 **SEC. 2. SPECIAL RECREATION PERMIT AND FEE.**

2 *Subsection (h) of section 803 of the Federal Lands*
3 *Recreation Enhancement Act (16 U.S.C. 6802) is amended*
4 *to read as follows:*

5 “(h) *SPECIAL RECREATION PERMIT AND FEE.*—

6 “(1) *IN GENERAL.*—*The Secretary may—*

7 “(A) *issue a special recreation permit for*
8 *Federal recreational lands and waters; and*

9 “(B) *charge a special recreation permit fee*
10 *in connection with the issuance of the permit.*

11 “(2) *SPECIAL RECREATION PERMITS.*—*The Sec-*
12 *retary may issue special recreation permits in the fol-*
13 *lowing circumstances:*

14 “(A) *For specialized individual and group*
15 *use of Federal facilities and Federal recreational*
16 *lands and waters, such as, but not limited to, use*
17 *of special areas or areas where use is allocated,*
18 *motorized recreational vehicle use, and group ac-*
19 *tivities or events.*

20 “(B) *To recreation service providers who*
21 *conduct outfitting, guiding, and other recreation*
22 *services on Federal recreational lands and waters*
23 *managed by the Forest Service, Bureau of Land*
24 *Management, Bureau of Reclamation, or the*
25 *United States Fish and Wildlife Service.*

1 “(C) *To recreation service providers who*
2 *conduct recreation or competitive events, which*
3 *may involve incidental sales on Federal rec-*
4 *reational lands and waters managed by the For-*
5 *est Service, Bureau of Land Management, Bu-*
6 *reau of Reclamation, or the United States Fish*
7 *and Wildlife Service.*

8 “(3) *REDUCTION IN FEDERAL COSTS AND DUPLI-*
9 *CATION OF ANALYSIS.—*

10 “(A) *IN GENERAL.—The issuance of a new*
11 *special recreation permit for activities under*
12 *paragraph (2) shall be categorically excluded*
13 *from further analysis and documentation under*
14 *the National Environmental Policy Act of 1969*
15 *(42 U.S.C. 4321 et seq.), if the proposed use is*
16 *the same as or similar to a previously authorized*
17 *use and the Secretary determines that such*
18 *issuance does not have significant environmental*
19 *effects based upon application of the extraor-*
20 *dinary circumstances procedures established by*
21 *the Secretary under the National Environmental*
22 *Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

23 “(B) *DEFINITION.—For the purposes of this*
24 *paragraph, the term ‘similar’ means—*

1 “(i) substantially similar in type, na-
2 ture, and scope; and

3 “(ii) will not result in significant new
4 impacts.

5 “(4) *RELATION TO FEES FOR USE OF HIGHWAYS*
6 *OR ROADS.*—An entity that pays a special recreation
7 permit fee shall not be subject to a road cost-sharing
8 fee or a fee for the use of highways or roads that are
9 open to private, noncommercial use within the bound-
10 aries of any Federal recreational lands or waters, as
11 authorized under section 6 of Public Law 88–657 (16
12 U.S.C. 537).”.

13 **SEC. 3. PERMIT ACROSS MULTIPLE JURISDICTIONS.**

14 (a) *IN GENERAL.*—In the case of an activity requiring
15 permits pursuant to subsection (h) of section 803 of the Fed-
16 eral Lands Recreation Enhancement Act (16 U.S.C. 6802)
17 for use of lands managed by both the Forest Service and
18 the Bureau of Land Management—

19 (1) the Secretaries may issue a joint permit
20 based upon a single application to both agencies when
21 issuance of a joint permit based upon a single appli-
22 cation will lower processing and other administration
23 costs for the permittee, provided that the permit ap-
24 plicant shall have the option to apply for separate
25 permits rather than a joint permit; and

1 (2) *the permit application required under para-*
2 *graph (1) shall be—*

3 (A) *the application required by the lead*
4 *agency; and*

5 (B) *submitted to the lead agency.*

6 (b) *REQUIREMENTS OF THE LEAD AGENCY.—The lead*
7 *agency for a permit under subsection (a) shall—*

8 (1) *coordinate with the associated agencies, con-*
9 *sistent with the authority of the Secretaries under sec-*
10 *tion 330 of the Department of the Interior and Re-*
11 *lated Agencies Appropriations Act, 2001 (43 U.S.C.*
12 *1703), to develop and issue the single, joint permit*
13 *that covers the entirety of the trip;*

14 (2) *in processing the joint permit application,*
15 *incorporate the findings, interests, and needs of the*
16 *associated agencies, provided that such coordination*
17 *shall not be subject to cost recovery; and*

18 (3) *complete the permitting process within a rea-*
19 *sonable time after receiving the permit application.*

20 (c) *EFFECT ON REGULATIONS.—Nothing in this sec-*
21 *tion shall alter, expand, or limit the applicability of any*
22 *Federal law (including regulations) to lands administered*
23 *by the relevant Federal agencies.*

24 (d) *DEFINITIONS.—In this section:*

1 (1) *ASSOCIATED AGENCY.*—*The term “associated*
 2 *agency” means an agency that manages the land on*
 3 *which the trip of the special recreation permit appli-*
 4 *cant will enter after leaving the land managed by the*
 5 *lead agency.*

6 (2) *LEAD AGENCY.*—*The term “lead agency”*
 7 *means the agency that manages the land on which the*
 8 *trip of the special recreation permit applicant will*
 9 *begin.*

10 **SEC. 4. GUIDELINES AND PERMIT FEE CALCULATION.**

11 (a) *GUIDELINES AND EXCLUSION OF CERTAIN REVE-*
 12 *NUES.*—*The Secretary shall—*

13 (1) *publish guidelines in the Federal Register for*
 14 *establishing recreation permit fees; and*

15 (2) *provide appropriate deductions from gross*
 16 *revenues used as the basis for the fees established*
 17 *under paragraph (1) for—*

18 (A) *revenue from goods, services, and activi-*
 19 *ties provided by a recreation service provider*
 20 *outside Federal recreational lands and waters,*
 21 *such as costs for transportation, lodging, and*
 22 *other services before or after a trip; and*

23 (B) *fees to be paid by permit holder under*
 24 *applicable law to provide services on other Fed-*

(c) *DISCLOSURE OF FEES.*—A holder of a special recreation permit may inform its customers of the various fees charged by the Secretary under section 803(h) of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6802(h)).

(a) *DEPOSITS.*—Subject to subsection (b), revenues from special recreation permits issued to recreation service providers under subparagraphs (B) and (C) of section 803(h)(2) of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6802(h)(2)) shall be held in special accounts established for each specific unit or area for which such revenues are collected, and shall remain available for expenditure, without further appropriation, until expended.

1 (b) *USE OF PERMIT FEES.*—Revenues from special
 2 recreation permits issued to recreation service providers
 3 under subparagraphs (B) and (C) of section 803(h)(2) of
 4 the Federal Lands Recreation Enhancement Act (16 U.S.C.
 5 6802(h)(2)) shall be used only—

6 (1) to partially offset the Secretary’s direct cost
 7 of administering the permits;

8 (2) to improve and streamline the permitting
 9 process; and

10 (3) for related recreation infrastructure and
 11 other purposes specifically to support recreation ac-
 12 tivities at the specific site for which use is authorized
 13 under the permit, after obtaining input from any re-
 14 lated permittees; provided, however, that the Federal
 15 Advisory Committee Act (5 U.S.C. App. 1 et seq.)
 16 shall not apply to any advisory committee or other
 17 group established to carry out this paragraph.

18 (c) *LIMITATION ON USE OF FEES.*—The Secretary
 19 may not use any permit fees for biological monitoring on
 20 Federal recreational lands and waters under the Endan-
 21 gered Species Act of 1973 (16 U.S.C. 1531 et seq.) for listed
 22 or candidate species.

23 **SEC. 6. ADJUSTMENT TO PERMIT USE REVIEWS.**

24 (a) *IN GENERAL.*—In reviewing and adjusting alloca-
 25 tions of use for priority use permits for special uses of Fed-

1 eral recreational lands and waters managed by the Forest
2 Service, and in renewing such permits, the Secretary of Ag-
3 riculture shall allocate to a permit holder a level of use that
4 is no less than the highest amount of actual annual use
5 over the reviewed period plus 25 percent, capped at the
6 amount of use allocated when the permit was issued unless
7 additional capacity is available. The Secretary may assign
8 any use remaining after adjusting allocations on a tem-
9 porary basis to qualified permit holders.

10 (b) *WAIVER.*—Use reviews under subsection (a) may
11 be waived for periods in which circumstances that prevented
12 use of assigned capacity, such as weather, fire, natural dis-
13 asters, wildlife displacement, business interruptions, insuf-
14 ficient availability of hunting and fishing licenses, or when
15 allocations on permits include significant shoulder seasons.
16 The authorizing office may approve non-use without reduc-
17 ing the number of service days assigned to the permit in
18 such circumstances at the request of the permit holder. Ap-
19 proved non-use may be temporarily assigned to other quali-
20 fied permit holders when conditions warrant.

21 **SEC. 7. AUTHORIZATION OF TEMPORARY PERMITS FOR**
22 **NEW USES FOR THE FOREST SERVICE AND**
23 **BLM.**

24 Not later than 180 days after the date of the enactment
25 of this Act, the Secretary of Agriculture and the Secretary

1 *of the Interior shall establish and implement a program to*
2 *authorize temporary permits for new recreational uses of*
3 *Federal recreational lands and waters managed by the For-*
4 *est Service or the Bureau of Land Management, respec-*
5 *tively, and to provide for the conversions of such temporary*
6 *permits to long-term permits after 2 years of satisfactory*
7 *operation. The issuance and conversion of such permits*
8 *shall be subject to subsection (h)(3) of section 803 of the*
9 *Federal Lands Recreation Enhancement Act (16 U.S.C.*
10 *6802).*

11 **SEC. 8. INDEMNIFICATION REQUIREMENTS.**

12 (a) *INDEMNIFICATION.*—A permit holder that is pro-
13 *hibited by the State from providing indemnification to the*
14 *Federal Government shall be considered to be in compliance*
15 *with indemnification requirements of the Department of the*
16 *Interior and the Department of Agriculture if the permit*
17 *holder carries the required minimum amount of liability*
18 *insurance coverage or is self-insured for the same minimum*
19 *amount.*

20 (b) *EXCULPATORY AGREEMENTS.*—The Secretary shall
21 *not implement, administer or enforce any regulation or pol-*
22 *icy prohibiting the use of exculpatory agreements between*
23 *recreation service providers and their customers for services*
24 *provided under a special recreation permit.*

1 **SEC. 9. STREAMLINING OF PERMITTING PROCESS.**

2 (a) *REGULATIONS.*—Not later than 180 days after the
3 date of the enactment of this Act, the Secretary of Agri-
4 culture shall revise part 251, subpart B, of title 36 Code
5 of Federal Regulations, and the Secretary of the Interior
6 shall revise subpart 2932, of title 43, Code of Federal Regu-
7 lations, to streamline the processes for the issuance and re-
8 newal of outfitter and guide special use permits. Such
9 amended regulations shall—

10 (1) shorten application processing times and
11 minimize application and administration costs; and

12 (2) provide for the use of programmatic environ-
13 mental assessments and categorical exclusions for en-
14 vironmental reviews under the National Environ-
15 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for
16 the issuance or renewal of outfitter and guide and
17 similar recreation special use permits when the Sec-
18 retary determines that such compliance is required, to
19 the maximum extent allowable under applicable law,
20 including, but not limited to, use of a categorical ex-
21 clusion as provided under section 803(h)(3) of the
22 Federal Lands Recreation Enhancement Act (16
23 U.S.C. 6802(h)(3)).

24 (b) *ONLINE APPLICATIONS.*—To the maximum extent
25 practicable, where feasible and efficient, the Secretary shall

1 *make special recreation permit applications available to be*
 2 *filled out and submitted online.*

3 **SEC. 10. COST RECOVERY REFORM.**

4 (a) *REGULATORY PROCESS.*—*Not later than 180 days*
 5 *after the date of enactment of this Act, the Secretary of Ag-*
 6 *riculture shall revise section 251.58 of title 36, Code of Fed-*
 7 *eral Regulations, and the Secretary of the Interior shall re-*
 8 *visе section 2932.31(e) and (f) of title 43, Code of Federal*
 9 *Regulations, to reduce costs and minimize the burden of cost*
 10 *recovery on small businesses and adverse impacts of cost*
 11 *recovery on jobs in the outfitting and guiding industry and*
 12 *on rural economies provided, however, that nothing in the*
 13 *revised regulations shall further limit the Secretary’s au-*
 14 *thority to issue or renew recreation special use permits.*

15 (b) *DE MINIMIS EXEMPTION.*—

16 (1) *COST RECOVERY LIMITATION.*—*Any regula-*
 17 *tions issued by the Secretary of the Interior or the*
 18 *Secretary of Agriculture to establish fees to recover*
 19 *processing costs for recreation special use applications*
 20 *and monitoring costs for recreation special use au-*
 21 *thorizations shall include an exemption providing*
 22 *that at least the first 50 hours of work necessary in*
 23 *any one year to process and/or monitor such an ap-*
 24 *plication shall not be subject to cost recovery. The ap-*
 25 *plication of a 50-hour credit per permit shall also*

1 *apply to any monitoring fees on a per annum basis*
2 *during the term of each permit.*

3 (2) *APPLICATION OF EXEMPTION.*—*An exemption*
4 *under paragraph (1) shall apply to the processing of*
5 *each recreation special use permit application and*
6 *monitoring of each recreation special use authoriza-*
7 *tion for which cost recovery is required, including*
8 *any application or authorization requiring more than*
9 *50 hours (or such other greater number of hours speci-*
10 *fied for exemption) to process or monitor. In the event*
11 *that the amount of work required to process such an*
12 *application or monitor such an authorization exceeds*
13 *the specified exemption, the amount of work for which*
14 *cost recovery is required shall be reduced by the*
15 *amount of the exemption.*

16 (3) *MULTIPLE APPLICATIONS.*—*In situations in-*
17 *volving multiple recreation special use applications*
18 *for similar services in the same unit or area that re-*
19 *quire more than 50 hours (or such other greater num-*
20 *ber of hours specified for exemption) in the aggregate*
21 *to process, the Secretary shall, regardless of whether*
22 *the applications are solicited or unsolicited and*
23 *whether there is competitive interest—*

1 (A) determine the share of the aggregate
2 amount to be allocated to each application, on
3 an equal or prorated basis, as appropriate; and
4 (B) for each application, apply a separate
5 exemption of up to 50 hours (or such other great-
6 er number of hours specified for exemption) to
7 the share allocated to such application.

8 (4) *COST REDUCTION.*—The agency processing a
9 recreation special use application shall utilize exist-
10 ing studies and analysis to the greatest extent prac-
11 ticable in order to reduce the amount of work and cost
12 necessary to process the application.

13 (5) *LIMITATION.*—The Secretary of the Interior
14 and the Secretary of Agriculture may not recover as
15 processing costs for recreation special use applications
16 and monitoring costs for recreation special use au-
17 thorizations any costs for consultations conducted
18 under section 7 of the Endangered Species Act of
19 1973 (16 U.S.C. 1536) or for biological monitoring on
20 Federal recreational lands and waters under such Act
21 for listed, proposed, or candidate species.

22 (6) *WAIVER OF COST RECOVERY.*—The Secretary
23 of the Interior and the Secretary of Agriculture may
24 waive the recovery of costs for processing recreation
25 special use permit applications and renewals, on a

1 *categorical or case-by-case basis as appropriate, if the*
2 *Secretary determines that—*

3 *(A) such costs would impose a significant*
4 *economic burden on any small business or cat-*
5 *egory of small businesses;*

6 *(B) such cost recovery could threaten the*
7 *ability of an applicant or permittee to provide,*
8 *in a particular area, a particular outdoor rec-*
9 *reational activity that is consistent with the pub-*
10 *lic interest and with applicable resource manage-*
11 *ment plans; or*

12 *(C) prevailing economic conditions are un-*
13 *favorable, such as during economic recessions, or*
14 *when drought, fire, or other natural disasters*
15 *have depressed economic activity in the area of*
16 *operation.*

17 **SEC. 11. EXTENSION OF FOREST SERVICE RECREATION PRI-**
18 **ORITY USE PERMITS.**

19 *Where the holder of a special use permit for outfitting*
20 *and guiding that authorizes priority use has submitted a*
21 *request for renewal of such permit in accordance with ap-*
22 *plicable laws and regulations, the Secretary of Agriculture*
23 *shall have the authority to grant the holder one or more*
24 *extensions of the existing permit for additional items not*
25 *to exceed 5 years in the aggregate, as necessary to allow*

1 *the Secretary to complete the renewal process and to avoid*
2 *the interruption of services under such permit. Before*
3 *granting an extension under this section, the Secretary shall*
4 *take all reasonable and appropriate steps to complete the*
5 *renewal process before the expiration of the special use per-*
6 *mit.*

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